IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7147 of 1994
With
SPECIAL CIVIL APPLICATION No.6260 of 1993
SPECIAL CIVIL APPLICATION No. 8298 of 1994
SPECIAL CIVIL APPLICATION No. 6399 of 1993
SPECIAL CIVIL APPLICATION No. 6411 of 1993
SPECIAL CIVIL APPLICATION No. 6056 of 1993
SPECIAL CIVIL APPLICATION NO. 6065 of 1993
SPECIAL CIVIL APPLICATION No. 6003 of 1993
SPECIAL CIVIL APPLICATION NO. 6400 of 1993
SPECIAL CIVIL APPLICATION No. 6346 of 1993
And
SPECIAL CIVIL APPLICATION No. 6238 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

JAMNAGAR JILLA REVENUE KARMACHARI MANDAL CLASS III & 1 - Petitioners
Versus
COLLECTOR & 2 - Respondents

==========

Appearance :
MR PM THAKKAR with MR. D.M. THAKKAR IN SCA 7147/1994 & 6399/1993, 6411/1993 for Petitioners

MR YN OZA IN SCA 8298/1994 & 6003/1993 for petitioner

MR JR NANAVATI IN SCA 6260/1993 & 6056/1993 for petitioner

MR TH SOMPURA IN SCA 6065/1993 FOR PETITIONER

MR PM RAVAL IN SCA 6400/1993 for petitioner

MS KETTY A MEHTA IN SCA 6346/1993 for petitioners

MR.SUNIT SHAH, LD.GOVERNMENT PLEADER for Respondents in SCA No.7147/1994, 6260/1993, and 8298/1994.

MR. VIPUL MISTRY, LD. AGP for Respondents in SCA 6399/1993,and 6411/1993; MR. H.K. MAKWANA, LD. AGP for respondents in SCA 6056 and 6065 of 1993; MR. Krunal D. Pandya, Ld. AGP for respondents in SCA 6003 and 6400 of 1993; and MR Amit P. Patel, Ld. AGP for respondents in SCA 6346 and 6238 of 1993.

==========

CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 03/12/2007

COMMON ORAL JUDGMENT:

Heard learned counsel for the parties.

1. The common question with regard to Higher Grade Pay Scale admissible to the Clerk in the Collectorate under the Revenue Department as per the scheme of granting higher grade pay scale under the Government Resolution dated 5/7/1991 is involved in these petitions and, therefore, they were also listed together and being disposed of by the present common order.

2. The counsels for the parties have pointed out that the post of Circle Inspector is never treated to be a promotional post and, therefore, the Clerk like the petitioners were entitled to get the higher grade pay scale admissible to the post of Deputy Mamlatdar which is a promotional post under the Revenue Department from the post of Clerk. Shri. Nanavati and Shri. Thakkar invited this Court's attention to the clarification issued by the Revenue Department on 26/2/1992 where under the petitioners

were accorded the scale of Rs.1640-2900 admissible to the post of Deputy Mamlatdar considering it to be a promotional post from the post of Clerk and therefore, on subsequent occasion it was not open to the respondents to withdraw the same.

3. The counsels for the petitioners have submitted that two departments of the same Government cannot act contrary to the statutory provision of rule and, therefore, this being an issue involving pay fixation and scale of pay, let the appropriate authority under the State of Gujarat treat these petitions as representations and decide the entire matter in light of the relevant provisions.

4. Shri. Sunit Shah, learned Government Pleader submits that, in view of the decision of the Apex Court in case of UNION OF INDIA & ORS. Vs. HIRANMOY SEN & ORS, reported in 2007 (12) SCALE, 170, and the earlier decision of the Apex Court in case of S.C. CHANDRA & ORS Vs. STATE OF JHARKHAND & ORS., reported in JT 2007 (10) SC 272, the appropriate authority is the competent authority in the State to go into the diverse/rival contentions of the parties and decide and remove the anomalous situation in respect of pay scale, if any. He submits that there shall be no objection if the competent authority is directed to decide the issue by treating the present petitions as representations.

5. In view of this consensus between the parties, the following directions deserve to be issued in the interest of justice.

(i) The concerned Secretary in General Administration Department shall treat these petitions as representations and decide the same in light of the Government Resolutions dated 5/7/1991 as well as 16/8/1994, the statutory relevant rules and other relevant materials.

(ii) The decision shall be rendered within a reasonable time, preferably within six months from the date of receipt of writ of this order.

(iii) Liberty is reserved to the petitioners to approach this Court in case any adverse decision is taken against them.

6. With the aforesaid directions, these petitions are disposed of. Rule in each of the petitions is discharged. Interim relief, if any, granted earlier in any of the petitions shall stand vacated. No cost.

7. Registry is directed to maintain copy of this order in each of the petitions.

[S.R. BRAHMBHATT, J]

/vgn